

Court of Appeals, State of Michigan

ORDER

In re M P F Minor

Docket No. 355945

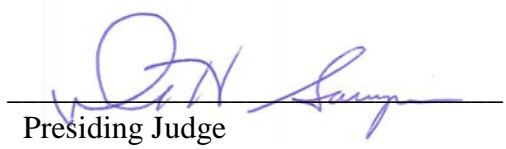
LC No. 20-006109-PW

David H. Sawyer
Presiding Judge

Douglas B. Shapiro

Mark T. Boonstra
Judges

The circuit court's December 29, 2020 order denying the petition for waiver of parental consent is **AFFIRMED**.


Presiding Judge

Judge Shapiro dissents and states as follows:

I vote to reverse and grant the requested relief. MCL 722.904 provides that the probate court “*shall* grant a waiver of parental consent” if either: “(a) [t]he minor is sufficiently mature and well-enough informed to make the decision regarding abortion independently of her parents or guardian” or “(b) [t]he waiver would be in the best interests of the minor.” MCL 722.904(3) (emphasis added).

Although a petitioner need only demonstrate one of the requirements, both are clearly met in this case. The young woman was thoughtful and answered the court's questions articulately and honestly. According to the record, petitioner attends high school, participates in extracurricular activities and works two jobs. There is absolutely no indication in the record that she lacks the ability to understand her choices or to make an informed decision. And using circular reasoning, the trial court concluded that the petitioner was not mature enough to make the decision without her parents because she did not want to discuss it with her parents.

The trial court, cited several other reasons, none of which have a basis in the statute.

First, the trial court expressed its concern that petitioner had not undergone “counseling” about the decision. The statute does not require “counseling.” Moreover, the record indicates that petitioner had multiple conversations with staff at Planned Parenthood regarding her choices and the nature of the procedure. The court seemed concerned about whether Planned Parenthood had fully informed petitioner but did not question her about the conversations, and there is no reason to believe that in her consultations with the clinic her options were not provided to her as required by the law governing informed consent for abortions. See MCL 333.17015.

Second, the court questioned petitioner's maturity because she was only two days beyond her 17th birthday. However, the statute applies to all minors, not merely those over 17. If petitioner's precise age is relevant to her maturity then it should weigh in favor of her petition given that she is quickly approaching the age of majority.

Finally, the trial court noted petitioner's decision to have an abortion without informing her parents was not in her best interest because if petitioner had an abortion it "would cause some serious problems with her parents." If anything, that concern is grounds to grant, not deny the petition.

Accordingly, I would vacate the trial court's order and issue an order granting the petition.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

January 7, 2021

Date


Chief Clerk